IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION NO : 11951 of 1996

Between:

Smt.N.P.Ramalakshmi,

Wife of late N.P.Narappa,

R/o D.No.2/580, Modinabad,

Guntakal, Anantapur District.

…. Petitioner

And

The Municipal Commissioner,

Guntakal Municipality, Guntakal,

Anantapur District.

…. Respondent.

* * *

ORDER:

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This writ petition is filed questioning the communication in Rc.No.T.S.No.37/96/TPBO III dated 14.06.1996 issued by the respondent to the petitioner directing her to remove the encroachment within seven days from the date of receipt of said notice.

2. The case of the petitioner is that she is absolute owner of the property in respect of which the impugned is issued as she purchased the same under a registered sale deed and constructed the building therein after obtaining permission from the municipality and did not encroach into any land belong to the municipality and that

the respondent under an assumption that she encroached into the municipal land, issued a show cause notice for which she gave reply and that the respondent without considering the reply in the proper perspective, mechanically issued the notice impugned and so the same is liable to be set aside.

3. Since the question relating to the ownership of the alleged encroached area cannot be decided in a proceeding under Article 226 of the Constitution and can be decided only by a civil court, petitioner ought to have approached the civil court for declaration of her title and the consequential relief similar to the one sought in this petition. Therefore, with a direction to the petitioner to approach the civil court for appropriate remedies, the writ petition is dismissed. *Status quo* as on today shall be continued by both the parties for a period of two weeks from today.

C.Y.SOMAYAJULU, J.

Date: 20th September 2005.

BSB